

# **Fairer Scotland Duty Assessment Summary**

## **Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill**

**August 2020**



**Scottish Government**  
Riaghaltas na h-Alba  
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## FAIRER SCOTLAND DUTY SUMMARY

Title of Policy, Strategy, Programme etc	Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill
<p><b>Summary of aims and expected outcomes of strategy, proposal, programme or policy</b></p>	<p>The Deputy First Minister of Scotland made a statement to Parliament on 23 October 2018 in which he committed to establishing a financial redress scheme for survivors of historical abuse in care.<sup>1</sup></p> <p>This requires new legislation, which is to be passed by the Scottish Parliament before the end of this Parliamentary term in March 2021 (subject to Parliamentary approval).</p> <p>The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill (“the Bill”) seeks to establish a financial redress scheme for survivors of historical child abuse in relevant care settings in Scotland, and, where appropriate, their next of kin. The main purpose of the scheme is to acknowledge and provide tangible recognition of the harm suffered as a result of historical child abuse whilst residing in a relevant care setting in Scotland.</p> <p>The scheme will also provide access to non-financial redress such as acknowledgement, apology and support, and it will sit alongside existing measures that the Scottish Government has put in place for survivors of historical child abuse.</p> <p>This scheme will contribute to a number of national outcomes:</p> <ul style="list-style-type: none"> <li>◆ Grow up loved, safe and respected so that they realise their full potential;</li> <li>◆ Respect, protect and fulfil human rights and live free from discrimination; and</li> <li>◆ Live in communities that are inclusive, empowered, resilient and safe.</li> </ul>
<p><b>Summary of evidence</b></p>	<p>Due to the sensitive nature of the subject, there is minimal data on the cohort of people that the scheme is created for (survivors of in-care abuse). There is also uncertainty around the number of eligible applicants there may be and the socio-economic status of these people. There are various reasons why documents and statistics are incomplete for this group including the restructuring of organisations, and the loss and damage of care records. It is widely accepted that historically the retention of records was not as robust as it is now.</p>

<sup>1</sup> <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11722&mode=html>

	<p>Work has taken place with the Government Actuary's Department to refine estimates of the number of applications the scheme may receive. Reports conducted by the Care Review, Future Pathways and the National Confidential Forum are contributing to the general knowledge and understanding of this cohort of people, how poverty and deprivation impacts them, and how this Bill may impact them further.</p> <p>The Scottish Government are members of the Review Group, (a group chaired by the Scottish Human Rights Commission) which brings together stakeholders with an interest in redress including survivors of abuse, representatives of provider organisations, Scottish Government, CELCIS and the Scottish Human Rights Commission. This forum offers invaluable insight in to the views of survivors and survivors organisations.</p> <p>According to the Care Review Report (2019), care experienced adults are over one and a half times more likely to experience severe multiple disadvantage and, on average, earn three quarters of the salary of their peers.<sup>2</sup> Within Scotland, children living in the top 10% of the most deprived areas in Scotland are 20 times more likely to become care experienced than those in the top 10% of the least deprived areas.</p> <p>The Scottish Prison Service "Prisoner's Survey 2015 – Young People in Custody"<sup>3</sup> report shows that a third of young offenders have been in care at some point in their life.</p> <p>Future Pathways, Scotland's national support service for survivors of abuse in care analysed the postcodes provided by 1,214 people registered in Scotland to identify their SIMD (Scottish Index of Multiple Deprivations) ranking and found that those registered were more likely to live in areas of deprivation.<sup>4</sup></p> <p>From this evidence, it is likely that a number of people affected by the scheme will also be affected by socio-economic inequalities. This has been taken into account when creating the scheme and consideration is being given to the ways appropriate support can be offered to all.</p>
<b>Summary of assessment findings</b>	<p>Steps have been taken to minimise any negative impact on those applying to the scheme or receiving a redress payment. As shown by the evidence, survivors of in-care abuse are more likely to be in poverty and/or facing multiple disadvantage.</p>

<sup>2</sup> <https://www.carereview.scot/wp-content/uploads/2020/02/Follow-the-money.pdf>

<sup>3</sup> <https://www.sps.gov.uk/Corporate/Publications/Publication-3908.aspx>

<sup>4</sup> <https://future-pathways.co.uk/wp-content/uploads/2020/04/Future-Pathways-Quarterly-Report-Q3-19-20.pdf>

There is the possibility that survivors may face some difficulties throughout the application process. However by learning from other schemes, engaging with appropriate organisations and assessing the current support services available, it is hoped that positive outcomes for survivors will be secured. A Survivor Forum will be established by the Scottish Ministers to enable survivors to feed back their thoughts on how the scheme is running in practice, which will help to monitor, assess and improve the survivor experience ensuring the scheme is fit for purpose.

The support applicants may need to apply has been taken in to account, including access to free legal advice and assistance with gathering evidence to meet the evidence requirements of the scheme.

Both the Redress Bill Team and wider directorate have been working with external organisations to gather views for the Bill including survivor groups, support groups, psychologists specialising in early trauma, and charities. These organisations have helped provide views on all aspects of the scheme including what may need to be in place to support applicants more broadly.

Engagement has taken place with internal stakeholders including officials within survivor support, health, human rights, and finance who have provided data, analysis and insight into existing services and any overlaps within the scheme and pre-existing policies.

The policy team has engaged with Homeless Action Scotland who submitted a response to the pre-legislative consultation. This has allowed us to minimise the number of barriers homeless people may face when applying to the scheme and receiving a payment. To address this, engagement has taken place with a number of organisations around Scotland at a network hosted by Cyrenians to ensure the additional barriers faced by the homeless population are taken in to account.

Initial engagement has taken place with relevant organisations such as Deaf Scotland and People First Scotland, as there are particular relevant care settings, for example long stay hospitals, which demand a considered focus on awareness raising and accessibility.

Work is ongoing with the Department for Work and Pensions, Her Majesty's Revenue and Customs, Department for Health and Social Care, Northern Irish social security colleagues and relevant Scottish Government colleagues to secure disregards

	<p>for the redress payments in relation to benefits, tax and social care entitlement. This will mean that survivors, and their next of kin where appropriate, will not have their benefits, tax or social care entitlements negatively impacted by a redress payment. If this is not in place by the time the scheme opens, there is the option to make payments in trust so that successful applicants' entitlements are not negatively affected.</p> <p>The Bill provides for the payment of legal advice which is reasonably incurred and up to set limits for all applicants. This will ensure that applicants have access to fair and equal legal advice regardless of their socioeconomic status.</p> <p>Access to counselling and wider support will be offered to eligible applicants. This is intended to help applicants through the application process and beyond.</p> <p>Redress payments can be paid in instalments where required for those who do not wish to receive a lump sum payment. Signposting to financial advice will be offered to those who receive a redress payment.</p> <p>There are provisions included within the Bill to allow the panel to make determinations on the method of redress payment to vulnerable persons to ensure the best interests of the applicant are protected. Circumstances where this may be used includes applicants who are under 16 years of age; an adult with incapacity; or a person whose ability to manage the redress payment is otherwise impaired.</p> <p>Research in to other schemes globally has improved the understanding of what support has been offered to applicants. Engagement with survivors has continued throughout the process to understand what support would be beneficial for them.</p> <p>Engagement will continue with survivors when the scheme is open through the Survivor Forum. This will give survivors an opportunity to feed back their views on how the scheme is running once it is live to ensure the scheme is fit for purpose.</p> <p>The impact the scheme is having on applicants once the scheme is live will be reviewed and any changes recommended we can to our processes and support offer if we discover any negative impacts in relation to inequalities and deprivation.</p>
<b>Sign off</b>	<p><b>Name: Donald Henderson</b></p> <p><b>Job title: Deputy Director - Redress, Relations and Response Division</b></p>





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